



DEPARTMENT OF TRANSPORTATION
HAZARDOUS MATERIALS REGULATIONS BOARD
WASHINGTON, D.C. 20590

16875

[Docket No. HM-80; Amdt. No. 173-68]

PART 173—SHIPPERS

Phosphorus Pentasulfide

On January 15, 1973, the Hazardous Materials Regulations Board published Docket No. HM-80; Amendment Nos. 172-18 and 173-68 (38 FR 1507) identifying phosphorus pentasulfide by name as a flammable solid and prescribing packaging requirements for its transportation.

The Board has received petitions for reconsideration of Note 1 following § 173.225(b)(2) as published in the amendment. This note authorizes non-DOT specification metal portable tanks similar to specification 53 or 56 to be used until August 30, 1973. After this date, DOT specification tanks would be required. The petitioners stated that due to the following conditions, more time was needed to obtain, or convert tanks to, DOT specification 56 portable tanks:

1. Larger than anticipated numbers of tanks are being removed from service since they are being considered as unacceptable by the petitioners themselves for conversion to DOT-56.

2. The necessity to replace these unacceptable tanks with new ones has required new capital appropriations with attendant delays.

3. Modification of large numbers of tanks has placed an overwhelming demand on the supplier's conversion hardware and replacement parts so that delivery dates have had to be extended resulting in the extension of work schedules.

The Board individually contacted the petitioners in writing and asked, as a condition of extension of the August 30, 1973 date, a written commitment that

every reasonable effort would be made to have tanks modified as early as practicable under the circumstances. The Board has received such commitments from the petitioners and believes an eight-month extension is reasonable and justified.

One petitioner requested "grandfathering" of the tanks not meeting the DOT-56 specification until all bins are modified. The petitioner did not establish that an unlimited extension of the date in Note 1 to § 173.225(b)(2) would be justified; therefore that portion of his petition is hereby denied.

Accordingly, § 173.225(b)(2), Note 1 is changed to read as follows:

§ 173.225 Phosphorus sesquisulfide.

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(b) * * *

(2) * * *

Note 1: Non-DOT specification metal portable tanks or bins similar to specification 53 or 56 may be used until April 30, 1974.

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All other amendments previously issued under this docket continue to be mandatorily effective June 30, 1973. However, voluntary compliance with the regulations as amended in this docket continues to be authorized.

Issued in Washington, D.C. on June 21, 1973.

ROBERT A. KAYE,
Board Member, for the
Federal Highway Administration.

MAC E. ROGERS,
Board Member, for the
Federal Railroad Administration.

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